

# Order

Michigan Supreme Court  
Lansing, Michigan

June 15, 2007

Clifford W. Taylor,  
Chief Justice

132863

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 132863  
COA: 270967  
Newaygo CC: 02-007676-FC

DAVID ANTHONY WHEETLEY,  
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the December 6, 2006 order of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REMAND this case to the Newaygo Circuit Court for further proceedings. While the defendant chose to represent himself at trial, there is no adequate record from which to review the question whether the trial court complied with the waiver of counsel procedures set out in MCR 6.005(D). Consistent with MCR 7.210(B)(2)(c) and (d), we ORDER that court to commence whatever proceedings it deems appropriate, to include an evidentiary hearing, to the end of determining whether MCR 6.005 (D) was complied with. Such proceedings may include seeking the assistance of the prosecuting attorney, the defendant, and attorneys David C. Jaunese and Robert MacAyeal, to construct a record concerning whether the trial court complied with MCR 6.005(D). We further ORDER the Newaygo Circuit Court, in accordance with Administrative Order 2003-03, to determine whether the defendant is indigent and, if so, to appoint counsel to represent the defendant in the proceedings on remand. We further ORDER that court, within 28 days of the conclusion of the hearing, to file with the Clerk of the Supreme Court a transcript of the hearing and its findings on whether the defendant's waiver of counsel was unequivocal and whether it complied with MCR 6.005(D).

We retain jurisdiction.



s0612

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 15, 2007

*Corbin R. Davis*

Clerk